



United States Department of Justice

*United States Attorney
Northern District of New York*

100 South Clinton Street, P.O. Box 7198
James M. Hanley Federal Building
Syracuse, New York 13261-7198

Tel.: (315) 448-0672
Fax: (315) 448-0646

June 10, 2024

VIA CM/ECF

Hon. Thérèse Wiley Dancks
U.S. Magistrate Judge
Federal Building and U.S. Courthouse
P.O. Box 7346
Syracuse, New York 13261-7346

Re: *Long et al. v. U.S. ICE & U.S. CBP*: Joint Status Report
Civil Action No.: 5:23-CV-1564 (DNH/TWD)

Dear Judge Dancks:

This office represents Defendants in this Freedom of Information Act (“FOIA”) case. Please accept this letter as a report on the conference as a joint status report as required by this Court’s Text Order dated May 14, 2024. *See* Dkt. # 26. By way of brief background, this case arises out of two FOIA requests. Plaintiffs made one request on United States Immigration and Customs Enforcement (“ICE”) and the other request on United States Customs and Border Protection. After a meet-and-confer process, Plaintiffs provided a settlement proposal for IIDS and EID data, both databases owned and operated by ICE, on April 19, 2024. Since then, Defendant ICE states it has identified, and is currently assessing, several legal, technological, and practical items that require analysis and then synthesis before ICE can provide a formal response to Plaintiffs’ settlement proposal. On June 7, 2024, Defendant ICE provided a four-page, single-spaced letter to Plaintiffs for the purpose of advancing settlement negotiations, which explained ICE’s efforts to date, identified some items that will need to be addressed, and asked Plaintiffs for more time to continue its analysis of Plaintiffs’ proposal.

Defendant ICE would like to provide the Court with a brief explanation of its efforts to date. ICE’s Government Information Law Division of the Office of the Principal Legal Advisor has engaged with subject-matter experts and teams in the ICE FOIA Privacy Office, the Cybersecurity Division of the Office of the Chief Information Officer, and the DHS Artificial Intelligence Corps. as well as the Law Enforcement Systems and Analysis, Statistical Track Unit to analyze how to respond to Plaintiffs’ proposal. In essence, if ICE ultimately makes a production here, it will be producing a significant portion of two databases, which contain extensive amounts of information (including personal identifying information as well as law enforcement sensitive information). Even if that information is removed, however, there are concerns that artificial intelligence programs could nevertheless piece information together that would expose the identities of people within the database. This is just one of the issues that ICE

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is currently exploring, which requires extensive analysis and work—and ultimately testing in an AI environment that is currently being brought into service.

Defendants remain confident that progress is being made in exploring the settlement potential of this case despite the time that has elapsed. Plaintiffs acknowledge that Defendants' letter of June 7 indicates that Defendants continue to explore the settlement proposal, but Plaintiffs have no firsthand basis for making any representation about the extent or nature of Defendants' progress. The parties look forward to discussing this matter further with the Court at the conference scheduled for June 17, 2024, at 10:00 a.m.

CARLA B. FREEDMAN
United States Attorney

By: /s/
David M. Katz
Assistant United States Attorney
Bar Roll No. 700065